



Agenda Date: 2/1/06  
Agenda Item: II A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.bpu.state.nj.us**

IN THE MATTER OF THE PETITION OF )  
ATLANTIC CITY ELECTRIC COMPANY FOR )  
APPROVAL OF AN ORDINANCE ADOPTED BY )  
THE CITY OF ATLANTIC CITY GRANTING )  
CONSENT TO ERECT, MAINTAIN AND OPERATE )  
UTILITY FACILITIES FOR THE PURPOSE OF )  
PROVIDING ELECTRIC SERVICE )

**DECISION AND ORDER**

DOCKET NO. EE05100894

(SERVICE LIST ATTACHED)

**BY THE BOARD**

Atlantic City Electric Company (ACE or Company), a regulated utility subject to the jurisdiction of the Board of Public Utilities (Board), is engaged in the transmission and distribution of electric energy for light, heat and power to over 500,000 residential, commercial and industrial customers located in eight counties in southern New Jersey.

Pursuant to Ordinance No. 69 enacted in 1905, ACE has provided electric utility service to the City of Atlantic City (City). Ordinance No. 60 also authorized ACE to use public space within the City to erect, maintain and operate the facilities necessary to provide electric service for a term of 100 years, commencing October 10, 1905.

On September 26, 2005, the City Council adopted Ordinance No. 74 which gives the Company the City's consent for an additional 50-year term to continue to provide electric service to the City and its residents and to that end use public space within the City to erect, maintain and operate those facilities necessary to provide electric service.

On October 25, 2005, pursuant to N.J.A.C. 14:1-5.5, ACE filed a petition requesting that the Board give its approval to the consent adopted by the City. As required by law, and after appropriate and sufficient notice, a hearing in this matter was held on January 9, 2006, at the Board's Newark offices before Edward D. Beslow, Esq., the Board's duly designated Hearing Officer. Appearances were made on behalf of the Company and the Board's Staff. By letter dated November 16, 2005, the Division of the Ratepayer Advocate informed the Board that the Division did not object to the approval of the relief requested by ACE. No other party

participated in the hearing or filed any written submission with the Board related to this proceeding.

At hearing, the Company relied on the testimony of Lee Wasman, its Senior Public Affairs Manager. Mr. Wasman indicated that he represented ACE during the negotiations with the City to renew the consent and testified as to its provisions.

After a full review of the entire record, the Board HEREBY FINDS that the municipal consent, which is the subject of this matter, is necessary and proper for the public convenience and properly conserves the public interests. Accordingly, the Board, pursuant to N.J.S.A. 48:2-14, HEREBY APPROVES the consent granted to Atlantic City Electric Company by the City of Atlantic City for the provision of electric utility service in the City as sought in ACE's petition at rates set out in the Company's current tariff which has been approved by and is on file with the Board. Said rates shall remain in effect until otherwise approved by the Board.

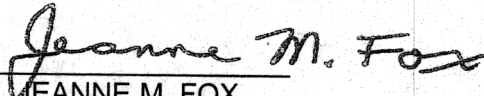
The approvals granted hereinabove shall be subject to the following provisions:

- This Order shall not be construed as directly or indirectly fixing for any purposes whatsoever the value of any tangible or intangible assets now owned or hereafter to be owned by Atlantic City Electric Company.
2. This Order shall not effect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, financing, accounting, capitalization, depreciation, or in any other matters affecting Atlantic City Electric Company.
3. In an appropriate subsequent proceeding, Atlantic City Electric Company shall have the burden of demonstrating whether, and to what extent, any of the costs associated with this petition shall be allocated to ratepayers.
4. Approval of this municipal consent ordinance does not constitute Board approval of any costs or expenses associated with this petition. Any determination as to the appropriateness or reasonableness of the costs and expenses related to the franchise, including, but not limited to, cost of construction, contributions in aid of


construction, depreciation on contributed plant, the cost of connection, or any related capital improvements, and the allocation of such costs and expenses, shall be made in an appropriate subsequent proceeding.

DATED 2/2/06

BOARD OF PUBLIC UTILITIES  
BY:


  
JEANNE M. FOX  
PRESIDENT

  
FREDERICK F. BUTLER  
COMMISSIONER

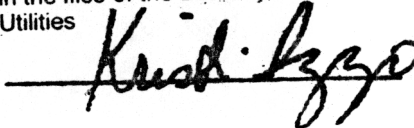
  
CONNIE O. HUGHES  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

ATTEST:

  
KRISTI IZZO  
SECRETARY

I HEREBY CERTIFY that the within  
document is a true copy of the original  
in the files of the Board of Public  
Utilities



**I/M/O the Petition of Atlantic City Electric Company for Approval of an Ordinance  
Adopted by the City of Atlantic City Granting Consent to Erect, Maintain and Operate  
Utility Facilities for the Purpose of Providing Electric Service**

**BPU DOCKET NO. EE05100894**

**SERVICE LIST**

Randall V. Griffin, Esq.  
Atlantic City Electric Company  
800 King Street  
P.O. Box 231  
Wilmington, Delaware 19899-0231

Carl Dzierzawiec  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102



A PHI Company

October 24, 2005

Randall V. Griffin  
Associate General Counsel

800 King Street  
Wilmington, DE 19801

P.O. Box 231  
Wilmington, DE 19899-0231

302.429.3016 – Telephone  
302.429.3801 – Facsimile  
randall.griffin@pepcoholdings.com

**VIA AIRBORNE EXPRESS**

Kristi Izzo, Secretary  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

EE 05100 894

RE: In the Matter of the Petition of Atlantic City Electric Company  
for Approval of an Ordinance Adopted by the City of Atlantic City  
Granting Consent to Erect, Maintain and Operate Utility Facilities for  
the Purpose of Providing Electric Service

Dear Secretary Izzo

Attached please find an original and 10 copies of a petition for approval of a consent given by the City of Atlantic City for the Company to continue to provide electric utility services and, to the end, to use public space for utility facilities. This consent, issued in the form of a City Ordinance, replaces the existing consent that derives from an Ordinance that is 100 years old.

I have also enclosed a self addressed stamped envelope and an additional copy that I would ask that you stamp and return.

Thank you for your attention to this matter. If you have any questions regarding this letter or the Petition, please call me at 302-429-3016.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Randall V. Griffin', written over a light blue horizontal line.

Randall V. Griffin, Esquire

cc: Nusha Wyner, Director-Division of Energy  
Carl Dzierzawiec, Division of Energy  
Edward D. Beslow, Esquire, Legal Specialist  
Seema M. Singh, Ratepayer Advocate  
Benjamin Fitzgerald, City Administrator, Atlantic City  
Roger E. Pedersen, PHI-Regulatory Affairs

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES**

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**IN THE MATTER OF THE PETITION  
OF ATLANTIC CITY ELECTRIC  
COMPANY FOR APPROVAL OF AN  
ORDINANCE ADOPTED BY THE CITY OF  
ATLANTIC CITY GRANTING CONSENT  
TO ERECT, MAINTAIN AND OPERATE  
UTILITY FACILITIES FOR THE PURPOSE  
OF PROVIDING ELECTRIC SERVICE**

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**BPU DOCKET NO.**

*EE 05100 894*

**TO THE HONORABLE NEW JERSEY BOARD OF PUBLIC UTILITIES:**

Atlantic City Electric Company, (hereinafter referred to as "Petitioner", "ACE" or the "Company") having its principal offices at 800 King Street, P.O. Box 231, Wilmington, Delaware, 19899 hereby respectfully petitions the Board of Public Utilities (hereinafter referred to as the "Board") pursuant to section 48:2-14 of the New Jersey Statutes Annotated (N.J.S.A.) and section 14:1-5.5 of the New Jersey Administrative Code (N.J.A.C.) as follows:

1       The Company is a corporation organized and existing under the laws of the State of New Jersey and is presently engaged in the transmission and distribution of electric energy for light, heat and power to residential, commercial and industrial customers. The Company's service territory comprises eight counties located in southern New Jersey and includes more than 500,000 customers. ACE is a direct, wholly-owned subsidiary of Conectiv and an indirect, wholly-owned subsidiary of Pepco Holdings, Inc., each of which is a Delaware corporation and a registered holding company under the Public Utility Holding Company Act of 1935 ("PUHCA").

2. Since 1905, ACE has provided electric utility service to the City of Atlantic City (the "City") pursuant to Ordinance No. 69, an ordinance duly enacted in 1905 prior to the time that New Jersey enacted the Public Utilities Code. Ordinance No. 69 also expressly authorized ACE to use public space within the City to erect, maintain and operate the facilities necessary to provide electric utility service. Ordinance No. 69 had a 100-year term beginning on October 10, 1905.

3. On September 26, 2005, the Mayor of the City signed Ordinance No. 74, which was duly enacted pursuant to law by the City Council. Ordinance No. 74 gives ACE the City's consent for an additional 50-year term to provide electric service to the City and its residents and to that end to use public space within the City to erect, maintain and operate the facilities necessary to provide electric service. The Ordinance provides more specificity and definition to this consent and a certified copy of the Ordinance is attached hereto as Exhibit A.

#### REQUESTED RULING

4. ACE respectfully requests that the Board give its approval to the consent enacted by the City.

5. Pursuant to the requirements of N.J.A.C. 14-1:5.5, Petitioner states as follows:

- a. A certified copy of the Ordinance is attached hereto.
- b. All statutory requirements relating to obtaining of the consent have been met. The Ordinance was enacted by the City Council of Atlantic City pursuant to the state and municipal laws to which it is subject and signed by the Mayor. The certified copy of the Ordinance establishes that the Ordinance has been duly and lawfully enacted.

The consent is necessary and proper for the public convenience and will properly conserve the public interest by maintaining the continuity of electric service that ACE has been providing to the City for 100 years.

d. Section 5 of the Ordinance requires ACE to maintain its property in good and safe order and condition throughout the term of the grant. Assurances are given and the public interest in continuous service is safeguarded because ACE remains a regulated public utility. Thus, the Board will continue its oversight of ACE to ensure that ACE provides safe, adequate, and proper service at just and reasonable rates and that service will not be interrupted at the end of the term.

6. Copies of this filing are being served on the Ratepayer Advocate and the City Administrator of the City of Atlantic City. ●

7. Communications and correspondence concerning this proceeding should be sent to the following:

Randall Griffin, Esq.  
PHI  
P.O. Box 231  
Wilmington, Delaware 19899 (via U.S. Mail)  
Or  
800 King Street  
Wilmington, Delaware 19801 (via overnight delivery service)

and

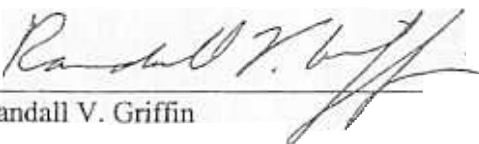
Roger Pedersen  
PHI – Regulatory Affairs  
5100 Harding Highway  
Mays Landing, New Jersey 08330

WHEREFORE, the Company respectfully requests that the Board make the following ruling:



A That the consent of the City of Atlantic City, as set forth in Ordinance No. 74, is approved.

Respectfully submitted,

  
Randall V. Griffin

Dated: October 24, 2005

# Ordinance

Ordinance No. 74 OF THE CITY OF ATLANTIC CITY, N.J. Date 08-10-05  
Date to Mayor 9-22-05

Approved as to Form and Legality on Basis of Facts Set Forth Factual contents certified to by

City Solicitor /s/ Beverly Graham-Foy Business Administrator /s/ Benjamin

Prepared by the City Solicitor's Of

Council Member ROSARIO Presents the following Ordinance:

AN ORDINANCE GRANTING CONSENT TO AND AUTHORIZING THE ATLANTIC CITY ELECTRIC COMPANY, A CORPORATION OF THE STATE OF NEW JERSEY, ITS SUCCESSORS AND ASSIGNS, TO ERECT AND MAINTAIN POLES AND STRING WIRES THEREON AND TO LAY CONDUITS AND PLACE WIRES THEREIN, WITH ALL THE NECESSARY FIXTURES AND APPLIANCES FOR ITS LINES, IN, UPON, OVER AND UNDER CERTAIN PUBLIC HIGHWAYS, STREETS, AND ALLEYS IN THE CITY OF ATLANTIC CITY, FOR THE PURPOSE OF TRANSMITTING ELECTRICITY THROUGH AND OVER SAID WIRES, TO FURNISH LIGHT, HEAT AND POWER TO INDIVIDUALS, CORPORATIONS AND MUNICIPALITIES."

WHEREAS, the City of Atlantic City has heretofore enacted an Ordinance providing for the right, inter alia, of the Atlantic City Electric Company to lay its lines along, over, and under the streets and highways in the City of Atlantic City; and

WHEREAS, said Ordinance by its term expires on October 10, 2005

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Atlantic City as follows:

## SECTION 1.

Permission is hereby given to the Atlantic City Electric Company, its successors and assigns, to erect and maintain poles and string wires thereon and to lay conduits and place wires therein, with all the necessary fixtures and appliances for its lines, in, upon, over and under the public highways, streets, and alleys in the City of Atlantic City owned by the City of Atlantic City for the purpose of transmitting electricity through and over said wires, to furnish light, heat and power to individuals, corporations and municipalities, and to that end to enter upon, open and excavate any and all streets, avenues, highways, lanes, alleys, and public grounds in the City of Atlantic City and to construct, lay and maintain underground conduits, manholes and pipes, terminal poles, and other fixtures and appliances in, upon, along, under, over and through any all the streets, avenues, highways, lanes, alleys and public grounds in the City of Atlantic City, and to also further such end, to construct, lay and maintain communications equipment used by Atlantic City Electric Company to operate its electric transmission and distribution system, telephonically read meters and for similar purposes, subject to the conditions hereinafter stated.

SECTION 2.

The use of said public highways, streets and alleys shall be subject to such regulations and ordinances as the City now has or may hereafter by ordinance prescribe relative to opening public highways, streets and alleys and also subject to the rights of the private individuals in and to said alleys.

SECTION 3.

All poles erected or maintained by said Atlantic City Company, or its successors or assigns, shall be neat and symmetrical and of adequate height above the surface of the used or improved public highways, streets and alleys when the same shall be completed, and shall be so located as in no way to interfere with the safety or convenience of persons traveling on or over said public highways, streets and alleys than shall be necessary to perform the work authorized here under with proper economy and efficiency and as shall comply with said regulations and ordinances.

SECTION 4

Said Atlantic City Electric Company or its successors and assigns as may be involved, shall if required by the City of Atlantic City, at its own proper costs and expense, remove or relocate any of the said poles or conduits, when it shall be necessary to do so by reason of a change of grade or crossing of any public highways, streets or alleys or the construction and repair thereof.

SECTION 5.

Said Atlantic City Electric Company, or its successors and assigns, as may be involved, shall maintain all posts, poles, wires, cables transformers, conduits, ducts, manholes and pipes erected, constructed or maintained under the provisions of this ordinance in good and safe order and condition.

SECTION 6.


This ordinance shall take effect immediately upon its final passage and its due publication as required by law, and all other ordinances or provisions of other ordinances inconsistent herewith are hereby repealed. This ordinance shall remain in effect for a 50 year term from the date that it becomes effective.

haj August 4, 2005 01:00:52 PM ORDELECT/COUNCIL/08-10-05

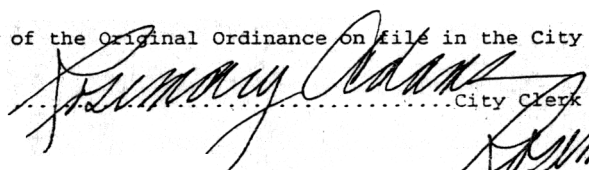
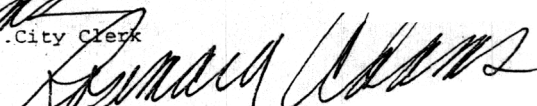
DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE													
COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
CLARK				/			MASON	/				/	
JONES	/						ROBINSON	/					/
MANCUSO	/						ROSARIO	/					
MARSH				/			SMALL	/					
CALLAWAY, PRESIDENT							/						
X-Indicates Vote NV-Not Voting AB-Absent MOT-Motion SEC-Second													

Adopted on first reading at a meeting of the Council of the City of Atlantic City, N.J., on September 7, 2005  
 Adopted on second and final reading after hearing on SEPTEMBER 21, 2005

Approved By:  Mayor  
 Date: 9-26-05 Reconsidered By Council: Over Ride Aye Nay

This copy of the Original Ordinance on file in the City Clerk's Office

 City Clerk  


## SUBCHAPTER 5. PETITIONS

## 14:1-5.1 Form and content

(a) All petitions shall comply with the provisions of N.J.A.C. 14:1-4 to the extent applicable: shall clearly and concisely state the facts and relief sought; shall cite by appropriate reference the statutory provision or other authority under which the Board's action is sought; and in addition, shall contain such information or statements as are required by provision of the statute and the applicable provision of these rules, or such other rules or orders adopted by the Board pertaining to certain petitions, or as may be required by the Board in a particular proceeding.

(b) Special requirements with respect to certain types of petitions are set forth in N.J.A.C. 14:1-5.5.

(c) Petitions directed to particular respondents shall conclude with a direction that the respondent satisfy the prayer of the petition or file and serve an answer within 20 days in accordance with these rules.

## Case Notes

Interim policy for the purchase of power from PURPA Qualifying Facilities. In the Matter of the Consideration and Determination of Cogeneration and Small Power Production Standards. 94 N.J.A.R.2d (BRC) 141.

Cogenerator's petition to compel electric and gas company to enter into a long term contract to purchase energy from the petitioner denied. In the Matter of the Petition of MidAtlantic Gogen, Inc. for an Order Directing Public Service Electric and Gas Co., 94 N.J.A.R.2d (BRC) 119.

Reconsideration of Board of Regulatory Commissioners' decision approving the construction of distribution substation denied: "prudent avoidance/prudent field management" test. In the Matter of the Appeal of Atlantic City Electric Company. 94 N.J.A.R.2d (BRC) 85.

Electric utility authorized to sell \$450 million of new securities and to redeem various first mortgage bonds. Petition of Jersey Central Power & Light Company. 92 N.J.A.R.2d (BRC) 65.

## 14:1-5.2 Applications to other regulatory bodies

(a) Where the relief sought in a petition also requires the approval or authorization of any other State or Federal regulatory body, the petition to the Board shall so state and include the following:

1. The current status of such application;

2. If the application to the other regulatory body or bodies has already been filed, a copy of each such application shall be attached to the petition to the Board, together with a copy of any order or certificate issued relating thereto; and

3. If such an application or amendment thereof is filed with another State or Federal regulatory body subsequent to the date of filing with the Board but prior to its determination, three copies of such application or amendment thereof, together with three copies of any order or

certificate issued relating thereto, shall be filed with the Board and served upon other parties of record.

## 14:1-5.3 Joinder of requests for relief

(a) A petitioner may join in a single petition more than one independent or alternative request for relief subject, however, to the payment of the statutory filing fees applicable to each of the approvals sought.

(b) The Board may in its discretion sever matters so joined for hearing and determination or take such other action as may be in the public interest.

## 14:1-5.4 Procedures of Board on filing of petition

(a) If in the opinion of the Board the petition complies substantially with these rules and appears on its face to state a matter within this Board's jurisdiction, and necessary copies have been received and fees paid, the Secretary of the Board shall file same.

(b) If after review the Board determines that a petition is deficient, the Board may refuse to consider and may issue an order dismissing said petition. In the case of a petition proposing increases in charges to customers, the time frame for Board decision set forth in N.J.S.A. 48:2-21(d) shall not begin to run until a complete petition has been filed with the Board.

(c) Unless otherwise directed by the Board, petitions and subsequent pleadings shall be served by the parties as provided for in N.J.A.C. 14:1-4.5.

(d) If within the time allowed for answer, the respondent makes an offer of satisfaction which is accepted by the petitioner, such offer and acceptance signed by the parties or their attorneys shall be filed with the Board and if not disapproved by the Board within 20 days, the petition shall be deemed satisfied and the proceedings closed without further action.

(e) When the respondent has not satisfied the petition, the Board may schedule a hearing thereon and issue such decision or order as the facts and circumstances appear to require.

Administrative correction to (c).  
See: 24 N.J.R. 4410(b).

## 14:1-5.5 Petitions for approval of franchises or consents

(a) Petitions for approval of a franchise or consent shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4, to the extent applicable. The following information shall also be supplied in the body of the petition or in attached exhibits:

1. A certified copy of the franchise or consent involved including the terms and conditions relating thereto;

2. Proof that all statutory requirements relating to the obtaining of the franchise or consent have been met; and

3. The reason why petitioner believes that the franchise or consent is necessary and proper for the public convenience and will properly conserve the public interest.

(b) In cases where the petition involves a new water or wastewater company, the petition shall, in addition to the requirements of (a) above, also provide the following information:

1. A certified copy of the certificate of incorporation;
2. Details of plant as to type, capacity, cost, status of plant construction, construction schedule and estimated number of customers to be served;
3. A map showing the location and size, in acres or square feet, of the franchise area and the composition, diameter, length and location of pipes to be initially installed; and
4. A statement as to status of petitioner's application to the Division of Water Policy of the Department of Environmental Protection for the diversion of water and approval of the proposed facilities. If the Department of Environmental Protection approval has not yet been given, the petitioner shall obtain and submit with the petition a copy of a letter from said Department expressing intent to approve the operation of the plant as it is proposed to be constructed.

(c) Under the terms of N.J.S.A. 48:2-14, a privilege or franchise granted by a municipality is not effective until approved by the Board.

(d) Grants which are limited to a term of years should contain provisions:

1. Safeguarding the public interest in continuous and uninterrupted service at and after the expiration of the term of the grant;
2. Requiring the maintenance of the property of the grantee in good order throughout the full term of the grant;
3. That the utility give reasonable assurance that the grantee will continuously afford safe, adequate and proper service at just and reasonable rates.

Amended by R.1997 d.264, effective July 7, 1997.

See: 29 N.J.R. 1259(b), 29 N.J.R. 2838(a).

In (b)4, amended Department references.

Amended by R.1998 d.84, effective February 2, 1998.

See: 29 N.J.R. 4250(b), 30 N.J.R. 563(a).

Former N.J.A.C. 14:11-1.5(a) and (b) were recodified as (c) and (d).

Amended by R.2002 d.337, effective October 21, 2002.

See: 34 N.J.R. 1769(a), 34 N.J.R. 3639(a).

In (b), substituted "wastewater" for "sewer" in the introductory paragraph.

#### Case Notes

Request to limousine service operator to file petition for Certificate of Public Convenience and Necessity improper as such service not under jurisdiction of Board of Public Utilities. In re: Application of Wilmer's Livery Service, Inc., 159 N.J.Super. 226, 387 A.2d 1202 (App.Div.1978).

Necessary methods and procedures to apportion funding between interexchange and local exchange telephone companies. In the Matter of the Funding of the New Jersey Statewide Dual Party Relay System, 94 N.J.A.R.2d (BRC) 33.

The Board lacked authority to prohibit natural gas utility from selling or repairing appliances. In Matter of Petition of New Jersey Natural Gas Company for Permission to Revise Rates for Appliance Service, 93 N.J.A.R.2d (BRC) 19.

#### 14:1-5.6 Petitions for the approval of the sale or lease of property

(a) Petitions for the approval of the sale, conveyance or lease of real or personal property, or the granting of an easement, or like interest therein as required by law shall conform to the provisions of N.J.A.C. 14:1-4 and N.J.A.C. 14:1-5.1 through 5.4 to the extent applicable, and shall in the body thereof, or in attached exhibits, also provide the following information:

1. Ten copies of a separate sheet or sheets designated Schedule "A" containing a description of the property:

- i. For real property, the location by municipality and county, a metes and bounds or other adequate description of the property, together with a description of the property and rights, if any, reserved by the utility shall be shown;

- ii. For personal property, sufficient information to identify the property adequately shall be included;

2. The name of transferee or lessee, the consideration or rental and method of payment thereof, and rights reserved by the transferor or lessor;

3. A copy of the written agreement, if any; if there is no written agreement, it shall be so stated;

4. A certified copy of the resolution of the board of directors or other authority authorizing the transfer or lease;

5. The purpose for which the property was originally acquired, the date of acquisition, the use made of the property for utility purposes, the date when and circumstances under which it ceased to be useful for such purposes, the present use, the possible prospective use and the identity of the official or officials who determined that the property is not now or prospectively required or useful for utility purposes. Any utility requesting to convey land utilized for the protection of a public water supply to a corporation or other entity which is not subject to the jurisdiction of the Board shall submit to the Board a detailed explanation of the prospective use or uses of the land to be conveyed and an assessment of the impact that the conveyance, and the prospective use or uses of the land conveyed, would have on the water quality of the affected public water supply;



# State of New Jersey

BOARD OF PUBLIC UTILITIES

DIVISION OF ENERGY

Two Gateway Center

Newark, NJ 07102

NUSHA WYNER  
Director

TEL: 973-648-3621  
FAX: 973-648-2467

November 21, 2005

**Via First Class Mail & Telecopier**

Mr. Randall V. Griffin, Esq.  
Associate General Counsel  
Atlantic City Electric Company  
800 King Street  
Wilmington, DE 19801

Re: In the Matter of the Petition of Atlantic City Electric Company for Approval of an Ordinance Adopted by the City of Atlantic City Granting Consent to Erect, Maintain and Operate Utility Facilities for the Purpose of Providing Electric Service

BPU Docket No. EE05100894

Dear Mr. Griffin:

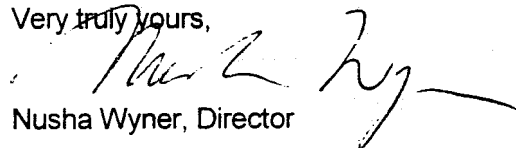
Insomuch as Atlantic City Electric Company has petitioned the Board of Public Utilities to approve this consent, enclosed please find the Division of Energy discovery requests ENR-01 through ENR-09 in the above referenced matter.

Pursuant to N.J.A.C. 17:27-10.4, please respond to the requests and submit copies of the documents requested herein by December 12, 2005 or submit a schedule of reasonable compliance within fifteen (15) days from receipt of this letter.

Please note that all discovery requests are of a continuing nature and should be updated or corrected, if necessary, over the course of the proceeding as soon as information becomes available. Also, provide a designation on each response identifying the witness sponsoring the answer.

Your cooperation in this matter is appreciated. Should you have any questions or concerns you may contact Carl Dzierzawiec at 973-648-4964.

Very truly yours,

  
Nusha Wyner, Director

Service List  
Enclosure

BPU Docket No. EE05100894

Interrogatories of the Board of Public Utilities Division of Energy

- ENR-01 Is this municipal consent renewable?
- ENR-02 Is this municipal consent transferable?
- ENR-03 How many Atlantic City residential, commercial, and industrial customers are presently served in this geographic area?
- ENR-04 What is the anticipated growth for this geographic area in the next five and the next ten years?
- ENR-05 Has Atlantic City Electric applied for and obtained all applicable rights-of-way approvals? Please list any missing or outstanding.
- ENR-06 Has Atlantic City Electric applied for and obtained all necessary permits? Please list all permits and when obtained.
- ENR-07 Have Atlantic City's residents been informed of this proposal? If so, explain fully.
- ENR-08 Was a public hearing held? If so, provide the notice of hearing and all pertinent details. If not, please state the reasons for not convening same.
- ENR-09 Were there any objections from residents or others? Provide details.



In the Matter of the Petition of Atlantic City Electric Company for Approval of an Ordinance Adopted  
by the City of Atlantic City Granting Consent to Erect, Maintain and Operate Utility Facilities for the  
Purpose of Providing Electric Service

BPU Docket No. EE05100894

Service List

Nusha Wyner, Director  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Dennis Moran, Assistant Director  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Suzanne Patnaude, Chief Counsel  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Carl Dzierzawiec, Principal Engineer  
Division of Energy  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Seema Singh, Esq., Director  
Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Fl  
P.O. Box 46005  
Newark, NJ 07101

Edward D. Beslow, Esq  
Legal Specialist  
Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Roger E. Pedersen, Manager  
NJ Regulatory Affairs  
Mays Landing Complex  
5100 Harding Highway  
Mays Landing, NJ 08330



A PHIL Company

Randall V. Griffin  
Associate General Counsel

800 King Street  
Wilmington, DE 19801

P.O. Box 231  
Wilmington, DE 19899-0231

302.429.3016 – Telephone  
302.429.3801 – Facsimile  
randall.griffin@pepcoholdings.com

December 13, 2005

Via Federal Express

Nusha Wyner, Director  
Division of Energy  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

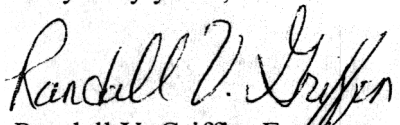
RE: In the Matter of the Petition of Atlantic City Electric Company for Approval of an Ordinance Adopted by the City of Atlantic City Granting Consent to Erect, Maintain and Operate Utility Facilities for the Purpose of Providing Electric Service  
**BPU Docket No. EE05100894**

Dear Ms. Wyner:

Enclosed please find Petitioner, Atlantic City Electric Company's responses to the Division of Energy's discovery requests ENR-01 through ENR-09 in regard to the above-captioned matter.

Copies of these responses are also being sent electronically to Carl Dzierzawiec and Edward D. Beslow.

Very truly yours,

  
Randall V. Griffin, Esquire

Enclosures

cc: Service List

**In the Matter of the Petition of Atlantic City Electric Company for Approval of an  
Ordinance Adopted by the City of Atlantic City Granting Consent to Erect,  
Maintain and Operate Utility Facilities for the Purpose of Providing Electric Service**

**BPU Docket No. EE05100894**

**SERVICE LIST**

Nusha Wyner, Director  
Division of Energy  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Roger E. Pedersen, Manager  
NJ Regulatory Affairs  
Atlantic City Electric Company  
5100 Harding Highway  
Mays Landing, NJ 08330

Dennis Moran, Assistant Director  
Division of Energy  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Suzanne Patnaude, Chief Counsel  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Carl Dzierzawiec, Principal Engineer  
Division of Energy  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Edward D. Beslow, Esquire  
Legal Specialist  
NJ Board of Public Utilities  
Two Gateway Center  
Newark, NJ 07102

Seema Singh, Esquire, Director  
NJ Division of Ratepayer Advocate  
31 Clinton Street, 11<sup>th</sup> Floor  
P.O. Box 46005  
Newark, NJ 07101

**In the Matter of the Petition of Atlantic City Electric Company for Approval of an  
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**BPU Docket No. EE05100894**

**ENR-01      Is this municipal consent renewable?**

**Response:**

Yes, it is renewable. The approved ordinance states that the consent covers only a period of 50 years from the date of the approval by the municipality September 29, 2005, after which it must once again be renewed.

**ENR-02      Is this municipal consent transferable?**

**Response:**

Yes, it is transferable. Section provides this consent to Atlantic City Electric "its successors and assigns."

**ENR-03      How many Atlantic City residential, commercial, and industrial customers are presently served in this geographical area?**

**Response:**

As of 12/5/05 the number of customers served in this geographical are:

Sales	English	CountOfSales
01	Residential	13478
02	Res Elec Heat	3120
21	Small Commercial	2666
25	Small Industrial	6
26	Large Commercial	221
27	Large Industrial	1
31	Commerical Elec Heat	30
36	Large Commercial Elec Heat	22
41	Public Street and Hwy Lighting	18

**In the Matter of the Petition of Atlantic City Electric Company for Approval of an Ordinance Adopted by the City of Atlantic City Granting Consent to Erect, Maintain and Operate Utility Facilities for the Purpose of Providing Electric Service**

**BPU Docket No. EE05100894**

**ENR-04        What is the anticipated growth for this geographic area in the next five and the next ten years?**

**Response:**

Based upon historical peak load data from 2000 to 2005, the Atlantic City area is growing at approximately 6.3 Mega-volt-ampere (MVA) annually. This would translate into a 2.8% per year increase over the 2005 peak load of 227.9 MVA. Therefore a 5 year projected forecast would be approximately 259.4 MVA and a 10 year projected forecast would be 290.9 MVA at system peak.

However, it should be noted that future load growth could differ from what has been seen in the past, depending upon the timing of new casinos and additional development in the area.

**ENR-05        Has Atlantic City Electric applied for and obtained all applicable rights-of-way approvals? Please list any missing or outstanding.**

**Response:**

All existing facilities are in place pursuant to the easements, rights of way, or permits that were necessary to install those facilities. To the extent new easements, rights of way, or permits would be necessary to install new facilities, such rights would be obtained from the appropriate private or governmental entities as needed.

**ENR-06        Has Atlantic City Electric applied for and obtained all necessary permits? Please list all permits and when obtained.**

**Response:**

See response to ENR-05

**In the Matter of the Petition of Atlantic City Electric Company for Approval of an Ordinance Adopted by the City of Atlantic City Granting Consent to Erect, Maintain and Operate Utility Facilities for the Purpose of Providing Electric Service**

**BPU Docket No. EE05100894**

**ENR-07      Have Atlantic City's residents been informed of this proposal? Is so, explain fully.**

**Response**

Notice to Atlantic City residents was provided through the public deliberation process used by the City of Atlantic City in its multiple readings of proposed ordinances leading to passage of the ordinance. Public meetings of the Atlantic City Council were held on August 10, September 7, and September 21, 2005 to consider the proposed ordinance.

See also response to ENR-08.

**ENR-08      Was a public meeting held? If so, provide the notice of hearing and all pertinent details. If so, please state the reasons for not convening same.**

**Response:**

Public meetings regarding the consent renewal were held during the regularly scheduled Atlantic City council meetings on 8/10/05, 9/7/05 and 9/21/05 to consider the proposed ordinance. On 8/10/05 the city council approved a resolution to publicly notice their intent to introduce the renewal ordinance at the September 7, 2005 council meeting. A first reading of the renewal notice along with an opportunity for the public to comment occurred on September 7, 2005. A second and final reading of the ordinance, along with an opportunity for public comment took place on September 21, 2005. It is the Company's understanding based on conversations with the Atlantic City Clerk's office that notices were published in the Press of Atlantic City on August 16, September 13 and September 30, 2005.

See also response to ENR-07.

**ENR-09      Were there any objections from residents or others? Provide details.**

**Response:**

To the Company's knowledge, no objections were raised by any resident or any other interested person.



State of New Jersey

DIVISION OF THE RATEPAYER ADVOCATE

31 CLINTON STREET, 11TH FLOOR

P.O. Box 46005

NEWARK NJ 07101

RECEIVED  
MAIL ROOM

2005 NOV 16 PM 3:49

PUBLIC UTILITIES  
NEWARK, N.J.

November 16, 2005

RICHARD J. CODEY  
Acting Governor

SEEMA M. SINGH, ESC  
Ratepayer Advocate  
and Director

VIA HAND DELIVERY

Kristi Izzo, Secretary  
Board of Public Utilities  
Two Gateway Center  
Newark, New Jersey 07102

RE: In the Matter of the Petition of Atlantic City Electric Company for  
Approval of an Ordinance Adopted by the City of Atlantic City  
Granting Consent to Erect, Maintain and Operate Utility Facilities  
for the Purpose of Providing Electric Service  
BPU Docket No. EE05100894

Dear Secretary Izzo:

Our office is in receipt of the above-referenced petition seeking approval by the Board of Public Utilities ("Board") of a consent given by the city of Atlantic City ("City") to Atlantic City Electric Company to continue providing electric service to the City for an additional fifty year term. We have reviewed this petition and do not object to its approval by the Board.

Respectfully Submitted,

Seema M. Singh, Esq.  
Ratepayer Advocate

By:

  
Ami Morita, Esq.  
Deputy Ratepayer Advocate

cc: Randall V. Griffin, Esq.  
Nusha Wyner, Director, Division of Energy  
Carl Dzierzawiec, Division of Energy  
Edward Beslow, Esq., Legal Specialist  
Ron Cash, City Administrator, Atlantic City  
Roger E. Pedersen, PHI-Regulatory Affairs

C 24  
BESLOW  
ENERGY

STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES

In the Matter of the Petition of  
Atlantic City Electric Company for  
Approval of an Ordinance Adopted by  
the City of Atlantic City Granting Consent  
to Erect, Maintain and Operate Utility  
Facilities for the Purpose of Providing  
Electric Service

BPU Docket No. EE05100894

**AFFIDAVIT**  
**Proof of Service**

**PAULA M. JAMES**, of full age being duly sworn according to law upon her oath  
deposes and says:

On December 6, 2005, I caused to be served, via certified mail return  
receipt requested, a copy of the attached Notice of Hearing to:


Rosemary Adams, City Clerk  
City of Atlantic City  
1301 Bacharach Boulevard  
Atlantic City, New Jersey 08401

Dennis Levinson, County Executive  
Atlantic County  
1333 Atlantic Avenue  
Atlantic City, New Jersey 08401

Thomas Somers, Clerk  
Atlantic County Board of Chosen Freeholders  
201 Shore Road  
Northfield, New Jersey 08225

2. Attached are the original certified mail receipts for each of the above-  
referenced recipients.

3. I do further certify that the information contained herein is true and correct  
to the best of my knowledge.

  
PAULA M. JAMES

Dated: January 6, 2006

Sworn and subscribed to before this me  
this 6<sup>th</sup> day of January, 2006.

  
Notary Public of the State of New Jersey

DONNA M. AMOROSO  
NOTARY PUBLIC OF NEW JERSEY

My Commission Expires May 19, 2006  
JV 165133.1 05400 00700 10/22/2007 1:24 PM





A PHI Company

**NOTICE OF HEARING**

**Via Certified Mail Return Receipt Requested**

TO: Rosemary Adams, City Clerk  
City of Atlantic City  
1301 Bacharach Boulevard  
Atlantic City, New Jersey 08401

Thomas Somers, Clerk  
Atlantic County Board of Chosen Freeholders  
201 Shore Road  
Northfield, New Jersey 08225

Dennis Levinson, County Executive  
Atlantic County  
1333 Atlantic Avenue  
Atlantic City, New Jersey 08401

RE: In the Matter of the Petition of Atlantic City Electric Company for  
Approval of an Ordinance Adopted by the City of Atlantic City Granting  
Consent to Erect, Maintain and Operate Utility Facilities for the Purpose  
of Providing Electric Service  
BPU Docket No. EE05100894

**PLEASE TAKE NOTICE:**

A hearing in the above captioned matter has been scheduled for Monday, January 9, 2006, at 11:00 a.m. in Conference Room No. 77 at the 8<sup>th</sup> Floor Offices of the NJ Board of Public Utilities located at Two Gateway Center, Newark, New Jersey.

This notice is sent to you by Petitioner, Atlantic City Electric Company, at the direction of the NJ Board of Public Utilities.

Petitioner:

15/ Randall V. Griffin  
Randall V. Griffin, Esquire

DATED: December 6, 2005

cc: Edward D. Beslow, Esquire-NJ Board of Public Utilities



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, New Jersey 07102**

December 5, 2005

Randall V. Griffin, Esq.  
Atlantic City Electric Company  
800 King Street  
Wilmington, Delaware 19801

Re: I/M/O the Petition of Atlantic City Electric Company  
for Approval of an Ordinance Adopted by the City  
of Atlantic City Granting Consent to Erect, Maintain  
and Operate Utility Facilities for the Purpose of Providing  
Electric Service  
BPU Docket No. EE05100894

Dear Mr. Griffin:

Please be advised that a hearing in the above matter has been scheduled for Monday, January 9, 2006, at 11:00 AM in Conference Room No. 77 at the 8<sup>th</sup> floor offices of the Board of Public Utilities located at Two Gateway Center, Newark, New Jersey.

At hearing, the Petitioner will be expected to establish that notice of the hearing was provided to the Clerks of the City of Atlantic City and the Atlantic County Board of Freeholders and to the Atlantic County Executive at least 20 days prior to the scheduled hearing date.

If I can be of any assistance prior to the hearing date, please do not hesitate to contact me at (973) 648-3242.

Sincerely,

A handwritten signature in black ink, appearing to read "Edward D. Beslow".

Edward D. Beslow, Esq.

Cc: Carl Dzierzawiec  
Roger E. Pedersen  
Ami Morita, Esq.

**SENDER: COM/**

1. Article Addressed  
 ■ Complete item 4 if Restricted  
 ■ Print your name so that we can attach this card or on the front

2. Article Number

7003 1680 0004 2058 2608

**Official Use**

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Postmark Here

Return Receipt Fee  
 Restricted Delivery Fee  
 Endorsement Required Fee

Postage & Fees \$

City of  
 1301 Broadway Boulevard  
 Atlantic City, NJ 08401

Sent To  
 Rosemary Adams - City Clerk  
 Street, Apt. No., or PO Box No.  
 City, State, ZIP+4

17 ☐ Yes ☐ No

Not for Merchandise

17 ☐ Yes ☐ No

Not for Merchandise

102595-02-M-1540

**SENDER: COM/**

1. Article Addressed  
 ■ Complete item 4 if Restricted  
 ■ Print your name so that we can attach this card or on the front

2. Article Number

7003 1680 0004 2058 4442

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U.S. Postal Service, P.O. Box 6374, 06  
 CERTIFIED MAIL, RECEIPT  
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For delivery information visit our website at [www.usps.com](http://www.usps.com)

Return Receipt Fee  
 Restricted Delivery Fee  
 Endorsement Required Fee

Postage & Fees \$

Dennis, County Executive  
 1333 Atlantic Avenue  
 Atlantic City, NJ 08401

Sent To  
 Dennis Levinson, County Executive  
 Street, Apt. No., or PO Box No.  
 City, State, ZIP+4

17 ☐ Yes ☐ No

Not for Merchandise

102595-99-M-1789

**SENDER: COM/**

1. Article Addressed  
 ■ Complete item 4 if Restricted  
 ■ Print your name so that we can attach this card or on the front

2. Article Number

7003 1680 0004 2058 4442

**Official Use**

U.S. Postal Service, P.O. Box 6374, 06  
 CERTIFIED MAIL, RECEIPT  
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For delivery information visit our website at [www.usps.com](http://www.usps.com)

Return Receipt Fee  
 Restricted Delivery Fee  
 Endorsement Required Fee

Postage & Fees \$

Thomas, Clerk  
 1301 Broadway Boulevard  
 Atlantic City, NJ 08401

Sent To  
 Thomas, Clerk  
 Street, Apt. No., or PO Box No.  
 City, State, ZIP+4

17 ☐ Yes ☐ No

Not for Merchandise

102595-02-M-1540

Statement of  
Lee Wasman  
On Behalf of  
Atlantic City Electric Company

January 9, 2006

In the Matter of the Petition of Atlantic City Electric Company for Approval of an  
Ordinance Adopted by the City of Atlantic City Granting Consent to Erect,  
Maintain and Operate Utility Facilities for the Purpose of Providing Electric  
Service

BPU Docket No. EE05100894

## **Statement of Lee Wasman**

My name is Lee Wasman. In my duties as Senior Public Affairs Manager I represented Atlantic City Electric Company (“ACE” of the “Company”) during the discussions with the City of Atlantic City (the “City”) in obtaining the renewal of an Ordinance granting consent to and authorizing the Company to use public space within Atlantic City to erect, maintain and operate the facilities necessary to provide electric utility service

By way of background, since 1905, ACE has provided electric utility service to the City pursuant to Ordinance No. 69, an Ordinance duly enacted in 1905 prior to the time that New Jersey enacted the Public Utilities Code. This Ordinance has a term of 100-years, which was to expire on October 10, 2005. On September 26, 2005, the Mayor of the City signed Ordinance No. 74, which was duly enacted pursuant to the law by the City Council. This Ordinance replaces Ordinance 69 and grants the Company the City’s consent for an additional 50-year term to provide electric service to the City and its residents and to that end use space within the City’s municipal boundaries to erect, maintain and operate the facilities necessary to provide electric utility service. To the best of my knowledge, all statutory requirements relating to this consent have been met. As further required by law a petition for approval of the consent was filed by the Company with the Board of Public Utilities on October 24, 2005.

This completes my opening statement and I will be glad to respond to any questions regarding the points specific to ACE.